

105TH CONGRESS
2D SESSION

H. R. 3503

To amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1998

Mr. POMEROY (for himself, Mr. KOLBE, Mrs. KENNELLY of Connecticut, Mr. ENGLISH of Pennsylvania, Mr. LEVIN, Mrs. THURMAN, Mr. PAYNE, Mr. GREEN, Mr. BOSWELL, Mr. RAHALL, Mr. FROST, Mr. YATES, Mr. STUPAK, Mr. TORRES, Mr. EVANS, Ms. DELAURO, Mr. UNDERWOOD, Ms. WOOLSEY, Mr. LEWIS of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. SESSIONS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Retirement Account Portability Act of 1998”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF**
 8 **PLANS.**

9 (a) ROLLOVERS FROM AND TO SECTION 457
 10 PLANS.—

11 (1) ROLLOVERS FROM SECTION 457 PLANS.—

12 (A) IN GENERAL.—Section 457(e) (relat-
 13 ing to other definitions and special rules) is
 14 amended by adding at the end the following:

15 “(16) ROLLOVER AMOUNTS.—

16 “(A) GENERAL RULE.—In the case of an
 17 eligible deferred compensation plan of an eligi-
 18 ble employer described in paragraph (1)(A),
 19 if—

20 “(i) any portion of the balance to the
 21 credit of an employee in such plan is paid
 22 to such employee in an eligible rollover dis-
 23 tribution (within the meaning of section
 24 402(c)(4)),

1 “(ii) the employee transfers any por-
2 tion of the property such employee receives
3 in such distribution to an eligible retire-
4 ment plan described in section
5 402(c)(8)(B), and

6 “(iii) in the case of a distribution of
7 property other than money, the amount so
8 transferred consists of the property distrib-
9 uted,

10 then such distribution (to the extent so trans-
11 ferred) shall not be includible in gross income
12 for the taxable year in which paid.

13 “(B) CERTAIN RULES MADE APPLICA-
14 BLE.—Rules similar to the rules of paragraphs
15 (2) through (7) and (9) of section 402(c) and
16 section 402(f) shall apply for purposes of sub-
17 paragraph (A).

18 “(C) REPORTING.—Rollovers under this
19 paragraph shall be reported to the Secretary in
20 the same manner as rollovers from qualified re-
21 tirement plans (as defined in section
22 4974(c)).”.

23 (B) DEFERRAL LIMIT DETERMINED WITH-
24 OUT REGARD TO ROLLOVER AMOUNTS.—Section
25 457(b)(2) (defining eligible deferred compensa-

tion plan) is amended by inserting “(other than rollover amounts)” after “taxable year”.

(2) ROLLOVERS TO SECTION 457 PLANS.—

(A) Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following:

“(v) an eligible deferred compensation plan described in section 457(b) of an eligible employer described in section 457(e)(1)(A).”.

(B) Paragraph (9) of section 402(c) is amended by striking “except that” and all that follows and inserting “except that only an account or annuity described in clause (i) or (ii) of paragraph (8)(B) shall be treated as an eligible retirement plan with respect to such distribution.”.

(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403(b) PLANS.—

(1) ROLLOVERS FROM SECTION 403(b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollover amounts) is amended by striking “such distribution” and all that follows and inserting “such

1 distribution to an eligible retirement plan described
2 in section 402(c)(8)(B), and”.

3 (2) ROLLOVERS TO SECTION 403(b) PLANS.—
4 Section 402(c)(8)(B) (defining eligible retirement
5 plan), as amended by subsection (a), is amended by
6 striking “and” at the end of clause (iv), by striking
7 the period at the end of clause (v) and inserting “,
8 and”, and by adding at the end the following:

9 “(vi) an annuity contract described in
10 section 403(b).”

11 (c) EXPANDED EXPLANATION TO RECIPIENTS OF
12 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section
13 402(f) (relating to written explanation to recipients of dis-
14 tributions eligible for rollover treatment) is amended by
15 striking “and” at the end of subparagraph (C), by striking
16 the period at the end of subparagraph (D) and inserting
17 “, and”, and by adding at the end the following new sub-
18 paragraph:

19 “(E) of the provisions under which dis-
20 tributions from the eligible retirement plan re-
21 ceiving the distribution may be subject to re-
22 strictions and tax consequences which are dif-
23 ferent from those applicable to distributions
24 from the plan making such distribution.”

25 (d) CONFORMING AMENDMENTS.—

1 (1) Section 72(o)(4) is amended by striking
2 “and 408(d)(3)” and inserting “403(b)(8),
3 408(d)(3), and 457(e)(16)”.

4 (2) Section 219(d)(2) is amended by striking
5 “or 408(d)(3)” and inserting “408(d)(3), or
6 457(e)(16)”.

7 (3) Section 401(a)(31)(B) is amended by strik-
8 ing “and 403(a)(4)” and inserting “, 403(a)(4),
9 403(b)(8), and 457(e)(16)”.

10 (4) Subparagraph (B) of section 403(b)(8) is
11 amended by inserting “and (9)” after “through
12 (7)”.

13 (5) Section 408(a)(1) is amended by striking
14 “or 403(b)(8)” and inserting “, 403(b)(8), or
15 457(e)(16)”.

16 (6) Subparagraphs (A) and (B) of section
17 415(b)(2) are each amended by striking “and
18 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
19 457(e)(16)”.

20 (7) Section 415(e)(2) is amended by striking
21 “and 408(d)(3)” and inserting “408(d)(3), and
22 457(e)(16)”.

23 (8) Section 4973(b)(1)(A) is amended by strik-
24 ing “or 408(d)(3)” and inserting “408(d)(3), or
25 457(e)(16)”.

1 (e) EFFECTIVE DATE; SPECIAL RULE.—

2 (1) EFFECTIVE DATE.—The amendments made
3 by this section shall apply to distributions after De-
4 cember 31, 1998.

5 (2) SPECIAL RULE.—Notwithstanding any other
6 provision of law, subsections (h)(3) and (h)(5) of
7 section 1122 of the Tax Reform Act of 1986 shall
8 not apply to any distribution from an eligible retire-
9 ment plan on behalf of an individual if there was a
10 rollover to such plan on behalf of such individual
11 which is permitted solely by reason of any amend-
12 ment made by this section. For purposes of the pre-
13 ceding sentence, the term “eligible retirement plan”
14 has the meaning given such term by section
15 402(c)(8)(B) of the Internal Revenue Code of 1986;
16 except that such term shall not include any individ-
17 ual retirement plan described in section
18 408(d)(3)(A)(ii) of such Code.

19 **SEC. 3. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
20 **MENT PLANS.**

21 (a) IN GENERAL.—Subparagraph (A) of section
22 408(d)(3) (relating to rollover amounts) is amended by
23 striking “or” at the end of clause (ii), by striking the pe-
24 riod at the end of clause (iii) and inserting a semicolon,
25 and by adding at the end the following:

1 “(iv)(I) the entire amount received
2 (including money and other property) rep-
3 resents the entire interest in the account
4 or the entire value of the annuity,

5 “(II) no amount in the account and
6 no part of the value of the annuity is at-
7 tributable to any source other than a roll-
8 over contribution from a defined contribu-
9 tion plan and any earnings on such roll-
10 over, and

11 “(III) such entire amount received is
12 paid into another defined contribution plan
13 (for the benefit of such individual) not
14 later than the 60th day after he receives
15 the payment or distribution; or

16 “(v)(I) the entire amount received (in-
17 cluding money and other property) rep-
18 resents the entire interest in the account
19 or the entire value of the annuity,

20 “(II) no amount in any such account
21 and no part of the value of any such annu-
22 ity is attributable to any source other than
23 a rollover contribution from such an ac-
24 count or annuity of such individual (and
25 any earnings on such contribution),

1 “(III) all contributions to all individ-
2 ual retirement accounts, and all amounts
3 paid for all individual retirement annuities,
4 of such individual were allowed as a deduc-
5 tion under section 219, and

6 “(IV) such entire amount received is
7 paid (not later than the 60th day after
8 being so received) into a defined contribu-
9 tion plan (for the benefit of such individ-
10 ual) under which amounts are held in trust
11 by a person described in section 408(a)(2)
12 or in a manner that satisfies section
13 401(f).

14 If a payment or distribution from an individual
15 retirement plan is described in more than one
16 clause of this subparagraph, such payment or
17 distribution shall be treated as described only in
18 the clause specified by the payee or distributee.
19 For purposes of this subparagraph, the term
20 ‘defined contribution plan’ means a defined con-
21 tribution plan (as defined in section 414(i))
22 which includes a trust exempt from tax under
23 section 501(a), an annuity plan described in
24 section 403(a), an annuity contract described in
25 section 403(b), and an eligible deferred com-

1 pensation plan described in section 457(b) of an
2 eligible employer described in section
3 457(e)(1)(A).”

4 (b) CONFORMING AMENDMENT.—Paragraph (1) of
5 section 403(b) is amended by striking “section
6 408(d)(3)(A)(iii)” and inserting “clause (iii), (iv), or (v)
7 of section 408(d)(3)(A)”.

8 (c) EFFECTIVE DATE; SPECIAL RULE.—

9 (1) EFFECTIVE DATE.—The amendments made
10 by this section shall apply to distributions after De-
11 cember 31, 1998.

12 (2) SPECIAL RULE.—Notwithstanding any other
13 provision of law, subsections (h)(3) and (h)(5) of
14 section 1122 of the Tax Reform Act of 1986 shall
15 not apply to any distribution from a defined con-
16 tribution plan (as defined in section 408(d)(3)(A) of
17 the Internal Revenue Code of 1986 (as added by
18 this section) on behalf of an individual if there was
19 a rollover to such plan on behalf of such individual
20 which is permitted solely by reason of the amend-
21 ments made by this section.

22 **SEC. 4. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

23 (a) IN GENERAL.—Paragraph (2) of section 402(c)
24 (relating to rules applicable to rollovers from exempt
25 trusts) is amended by adding at the end the following new

1 sentence: “In accordance with rules prescribed by the Sec-
2 retary, the preceding sentence shall not apply to any dis-
3 tribution if—

4 “(A) the portion of the distribution which
5 would be so includible is reported by the trust-
6 ee, and

7 “(B) the eligible retirement plan to which
8 it is paid agrees to report such amount in any
9 subsequent distribution.”

10 (b) CONFORMING AMENDMENTS.—

11 (1) Subparagraph (B) of section 401(a)(31) is
12 amended by adding at the end the following new
13 sentence: “In accordance with rules prescribed by
14 the Secretary, the preceding sentence shall not apply
15 to any distribution if—

16 “(i) the portion of the distribution
17 which would be so includible is reported by
18 the trustee, and

19 “(ii) the eligible retirement plan to
20 which it is paid agrees to report such
21 amount in any subsequent distribution.”

22 (2) Subparagraph (B) of section 408(d)(3) is
23 amended—

24 (A) by striking “LIMITATION.—” in the
25 heading and inserting “LIMITATIONS.—”, and

1 (B) by adding at the end the following: “In
 2 addition, this paragraph does not apply unless
 3 rules similar to the rules of section 402(c)(2)
 4 are satisfied, except that the rollover contribu-
 5 tion may exceed the amount includible in in-
 6 come to the extent the rollover contribution con-
 7 sists of nondeductible contributions described in
 8 subsection (o).”

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to distributions made after Decem-
 11 ber 31, 1998.

12 **SEC. 5. FASTER VESTING OF EMPLOYER MATCHING CON-**
 13 **TRIBUTIONS.**

14 (a) AMENDMENTS TO 1986 CODE.—Subsection (a) of
 15 section 411 (relating to minimum vesting standards) is
 16 amended—

17 (1) in paragraph (2), by striking “A plan” and
 18 inserting “Except as provided in paragraph (12), a
 19 plan”, and

20 (2) by adding at the end the following:

21 “(12) FASTER VESTING FOR MATCHING CON-
 22 TRIBUTIONS.—In the case of matching contributions
 23 (as defined in section 401(m)(4)(A)), paragraph (2)
 24 shall be applied—

1 “(A) by substituting ‘3 years’ for ‘5 years’
2 in subparagraph (A), and
3 “(B) by substituting the following table for
4 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”

5 (b) AMENDMENTS TO ERISA.—Section 203(a) of the
6 Employee Retirement Income Security Act of 1974 (29
7 U.S.C. 1053(a)) is amended—

8 (1) in paragraph (2), by striking “A plan” and
9 inserting “Except as provided in paragraph (4), a
10 plan”, and

11 (2) by adding at the end the following:

12 “(4) FASTER VESTING FOR MATCHING CON-
13 TRIBUTIONS.—In the case of matching contributions
14 (as defined in section 401(m)(4)(A) of the Internal
15 Revenue Code of 1986), paragraph (2) shall be ap-
16 plied—

17 “(A) by substituting ‘3 years’ for ‘5 years’
18 in subparagraph (A), and
19 “(B) by substituting the following table for
20 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40

“Years of service:	The nonforfeitable percentage is:
4	60
5	80
6	100.”

1 (c) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to contributions for plan years beginning
5 after December 31, 1998.

6 (2) COLLECTIVE BARGAINING AGREEMENTS.—

7 In the case of a plan maintained pursuant to 1 or
8 more collective bargaining agreements between em-
9 ployee representatives and 1 or more employers rati-
10 fied by the date of enactment of this Act, the
11 amendments made by this section shall not apply to
12 contributions on behalf of employees covered by any
13 such agreement for plan years beginning before the
14 earlier of—

15 (A) the later of—

16 (i) the date on which the last of such
17 collective bargaining agreements termi-
18 nates (determined without regard to any
19 extension thereof on or after such date of
20 enactment), or

21 (ii) January 1, 1999, or

22 (B) January 1, 2003.

1 (3) PARTICIPATION REQUIRED.—The amend-
2 ments made by this section shall not apply to any
3 employee who does not have 1 hour of service in any
4 plan year to which the amendments made by this
5 section apply.

6 **SEC. 6. EXTENSION OF MISSING PARTICIPANTS PROGRAM.**

7 (a) IN GENERAL.—Section 4050 of the Employee Re-
8 tirement Income Security Act of 1974 (29 U.S.C. 1350)
9 is amended by redesignating subsection (c) as subsection
10 (e) and by inserting after subsection (b) the following new
11 subsections:

12 “(c) MULTIEMPLOYER PLANS.—The corporation
13 shall prescribe rules similar to the rules in subsection (a)
14 for multiemployer plans covered by this title that termi-
15 nate under section 4041A.

16 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

17 “(1) TRANSFER TO CORPORATION.—The plan
18 administrator of a plan described in paragraph (4)
19 may elect to transfer a missing participant’s benefits
20 to the corporation upon termination of the plan.

21 “(2) INFORMATION TO THE CORPORATION.—To
22 the extent provided in regulations, the plan adminis-
23 trator of a plan described in paragraph (4) shall,
24 upon termination of the plan, provide the corpora-

1 tion information with respect to benefits of a miss-
2 ing participant if the plan transfers such benefits—

3 “(A) to the corporation, or

4 “(B) to an entity other than the corpora-
5 tion or a plan described in paragraph (4)(B)(ii).

6 “(3) PAYMENT BY THE CORPORATION.—If ben-
7 efits of a missing participant were transferred to the
8 corporation under paragraph (1), the corporation
9 shall, upon location of the participant or beneficiary,
10 pay to the participant or beneficiary the amount
11 transferred (or the appropriate survivor benefit) ei-
12 ther—

13 “(A) in a single sum (plus interest), or

14 “(B) in such other form as is specified in
15 regulations of the corporation.

16 “(4) PLANS DESCRIBED.—A plan is described
17 in this paragraph if—

18 “(A) the plan is a pension plan (within the
19 meaning of section 3(2))—

20 “(i) to which the provisions of this
21 section do not apply (without regard to
22 this subsection), and

23 “(ii) which is not a plan described in
24 paragraphs (2) through (11) of section
25 4021(b), and

1 “(B) at the time the assets are to be dis-
2 tributed upon termination, the plan—

3 “(i) has missing participants, and

4 “(ii) has not provided for the transfer
5 of assets to pay the benefits of all missing
6 participants to another pension plan (with-
7 in the meaning of section 3(2)).

8 “(5) CERTAIN PROVISIONS NOT TO APPLY.—

9 Subsections (a)(1) and (a)(3) shall not apply to a
10 plan described in paragraph (4).”.

11 (b) CONFORMING AMENDMENT.—Section 206(f) of
12 the Employee Retirement Income Security Act of 1974
13 (29 U.S.C. 1056(f)) is amended by striking “the plan shall
14 provide that”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions made after final
17 regulations implementing subsections (c) and (d) of sec-
18 tion 4050 of the Employee Retirement Income Security
19 Act of 1974 (as added by subsection (a)), respectively, are
20 prescribed.

21 **SEC. 7. EXTENSION OF 60-DAY ROLLOVER PERIOD IN THE**
22 **CASE OF PRESIDENTIALLY-DECLARED DISAS-**
23 **TERS AND SERVICE IN COMBAT ZONE.**

24 (a) IN GENERAL.—Paragraph (1) of section 7508(a)
25 (relating to time postponed for performing certain acts)

1 is amended by striking “and” at the end of subparagraph
 2 (J), by redesignating subparagraph (K) as subparagraph
 3 (L), and by inserting after subparagraph (J) the following
 4 new subparagraph:

5 “(K) Rollover of any distribution within
 6 the 60-day period specified in section 402(c)(3)
 7 or 408(d)(3)(A); and”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to distributions made after Decem-
 10 ber 31, 1998.

11 **SEC. 8. RATIONALIZE THE RESTRICTIONS ON DISTRIBU-**
 12 **TIONS FROM DEFINED CONTRIBUTION**
 13 **PLANS.**

14 (a) DISTRIBUTIONS PERMITTED ON SEVERANCE
 15 FROM EMPLOYMENT.—

16 (1) 401(k) PLANS.—Section 401(k)(2)(B)(i)(I)
 17 (relating to qualified cash or deferred arrangements)
 18 is amended by striking “separation from service”
 19 and inserting “severance from employment”.

20 (2) 403(b) CONTRACTS.—

21 (A) Clause (ii) of section 403(b)(7)(A) is
 22 amended by striking “separates from service”
 23 and inserting “severs from employment”.

24 (B) Paragraph (11) of section 403(b) is
 25 amended—

1 (i) by striking “SEPARATION FROM
2 SERVICE” in the heading and inserting
3 “SEVERANCE FROM EMPLOYMENT”, and

4 (ii) by striking “separates from serv-
5 ice” and inserting “severs from employ-
6 ment”.

7 (3) 457 PLANS.—Clause (ii) of section
8 457(d)(1)(A) is amended by striking “is separated
9 from service” and inserting “has a severance from
10 employment”.

11 (b) BUSINESS SALE REQUIREMENTS DELETED.—

12 (1) IN GENERAL.—Section 401(k)(2)(B)(i)(II)
13 (relating to qualified cash or deferred arrangements)
14 is amended by striking “an event” and inserting “a
15 plan termination”.

16 (2) CONFORMING AMENDMENTS.—Section
17 401(k)(10) is amended—

18 (A) by striking subparagraph (A) and in-
19 serting the following:

20 “(A) IN GENERAL.—A plan termination is
21 described in this paragraph if the termination
22 of the plan does not involve the establishment
23 or maintenance of another defined contribution
24 plan (other than an employee stock ownership
25 plan as defined in section 4975(e)(7)).”,

1 (B) in subparagraph (B)—

2 (i) by striking “An event” and insert-
3 ing “A termination”, and

4 (ii) by striking “the event” and insert-
5 ing “the termination”,

6 (C) by striking subparagraph (C), and

7 (D) by striking “OR DISPOSITION OF AS-
8 SETS OR SUBSIDIARY” in the heading.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to distributions after December 31,
11 1998.

12 **SEC. 9. TRANSFeree DEFINED CONTRIBUTION PLAN NEED**
13 **NOT HAVE SAME DISTRIBUTION OPTIONS AS**
14 **TRANSFEROR DEFINED CONTRIBUTION**
15 **PLAN.**

16 (a) IN GENERAL.—Section 411(d)(6) (relating to ac-
17 crued benefit not to be decreased by amendment) is
18 amended by adding at the end the following new subpara-
19 graph:

20 “(D) PLAN TRANSFERS.—A defined con-
21 tribution plan (in this subparagraph referred to
22 as the ‘transferee plan’) shall not be treated as
23 failing to meet the requirements of this para-
24 graph merely because the transferee plan does
25 not provide some or all of the forms of distribu-

tion previously available under another defined contribution plan (in this subparagraph referred to as the ‘transferor plan’) to the extent that—

“(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

“(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

“(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

“(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

“(v) if the transferor plan provides for an annuity as the normal form of distribu-

tion under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

“(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution.”.

(b) CONFORMING AMENDMENT.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

“(4) A defined contribution plan (in this paragraph referred to as the ‘transferee plan’) shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this paragraph referred to as the ‘transferor plan’) to the extent that—

1 “(A) the forms of distribution previously avail-
2 able under the transferor plan applied to the account
3 of a participant or beneficiary under the transferor
4 plan that was transferred from the transferor plan
5 to the transferee plan pursuant to a direct transfer
6 rather than pursuant to a distribution from the
7 transferor plan,

8 “(B) the terms of both the transferor plan and
9 the transferee plan authorize the transfer described
10 in subparagraph (A),

11 “(C) the transfer described in subparagraph
12 (A) was made pursuant to a voluntary election by
13 the participant or beneficiary whose account was
14 transferred to the transferee plan,

15 “(D) the election described in subparagraph (C)
16 was made after the participant or beneficiary re-
17 ceived a notice describing the consequences of mak-
18 ing the election,

19 “(E) if the transferor plan provides for an an-
20 nuity as the normal form of distribution under the
21 plan in accordance with section 205, the transfer is
22 made with the consent of the participant’s spouse (if
23 any), and such consent meets requirements similar
24 to the requirements imposed by section 205(c)(2),
25 and

1 “(F) the transferee plan allows the participant
 2 or beneficiary described in subparagraph (C) to re-
 3 ceive any distribution to which the participant or
 4 beneficiary is entitled under transferee plan in the
 5 form of a single sum distribution.”.

6 (b) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to transfers after December 31,
 8 1998.

9 **SEC. 10. ALLOWANCE OF EMPLOYERS TO DISREGARD**
 10 **ROLLOVERS FOR PURPOSES OF CASH-OUT**
 11 **AMOUNTS.**

12 (a) AMENDMENTS TO 1986 CODE.—

13 (1) Section 411(a)(11) (relating to restrictions
 14 on certain mandatory distributions) is amended by
 15 adding at the end the following:

16 “(D) SPECIAL RULE FOR ROLLOVER CON-
 17 TRIBUTIONS.—A plan shall not fail to meet the
 18 requirements of this paragraph if, under the
 19 terms of the plan, the present value of the non-
 20 forfeitable accrued benefit is determined with-
 21 out regard to that portion of such benefit which
 22 is attributable to rollover contributions (and
 23 earnings allocable thereto). For purposes of this
 24 subparagraph, the term ‘rollover contributions’
 25 means any rollover contribution under sections

1 402(c), 403(a)(4), 403(b)(8), clause (ii), (iii),
2 or (iv) of 408(d)(3)(A), and 457(e)(16).”.

3 (2) Clause (i) of section 457(e)(9)(A) is amend-
4 ed by striking “such amount” and inserting “the
5 portion of such amount which is not attributable to
6 rollover contributions (as defined in section
7 411(a)(11)(D))”.

8 (b) AMENDMENT TO ERISA.—Section 203(e) of the
9 Employee Retirement Income Security Act of 1974 (29
10 U.S.C. 1053(e)) is amended by adding at the end the fol-
11 lowing:

12 “(4) A plan shall not fail to meet the requirements
13 of this subsection if, under the terms of the plan, the
14 present value of the nonforfeitable accrued benefit is de-
15 termined without regard to that portion of such benefit
16 which is attributable to rollover contributions (and earn-
17 ings allocable thereto). For purposes of this paragraph,
18 the term ‘rollover contributions’ means any rollover con-
19 tribution under sections 402(c), 403(a)(4), 403(b)(8),
20 clause (ii), (iii), or (iv) of 408(d)(3)(A), and 457(e)(16)
21 of the Internal Revenue Code of 1986.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to distributions after December 31,
24 1998.

1 **SEC. 11. PURCHASE OF SERVICE CREDIT IN GOVERN-**
 2 **MENTAL DEFINED BENEFIT PLANS.**

3 (a) 403(b) PLANS.—Subsection (b) of section 403 is
 4 amended by adding at the end the following new para-
 5 graph:

6 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 7 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 8 amount shall be includible in gross income by reason
 9 of a direct trustee-to-trustee transfer to a defined
 10 benefit governmental plan (as defined in section
 11 414(d)) if such transfer is—

12 “(A) for the purchase of permissive service
 13 credit (as defined in section 415(n)(3)(A))
 14 under such plan, or

15 “(B) a repayment to which section 415
 16 does not apply by reason of subsection (k)(3)
 17 thereof.”

18 (b) 457 PLANS.—

19 (1) Subsection (e) of section 457 is amended by
 20 adding at the end the following new paragraph:

21 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO
 22 PURCHASE PERMISSIVE SERVICE CREDIT.—No
 23 amount shall be includible in gross income by reason
 24 of a direct trustee-to-trustee transfer to a defined
 25 benefit governmental plan (as defined in section
 26 414(d)) if such transfer is—

1 “(A) for the purchase of permissive service
 2 credit (as defined in section 415(n)(3)(A))
 3 under such plan, or

4 “(B) a repayment to which section 415
 5 does not apply by reason of subsection (k)(3)
 6 thereof.”

7 (2) Section 457(b)(2), as amended by section 2,
 8 is amended by striking “(other than rollover
 9 amounts)” and inserting “(other than rollover
 10 amounts and amounts received in a transfer referred
 11 to in subsection (e)(16))”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to trustee-to-trustee transfers after
 14 December 31, 1998.

15 **SEC. 12. PROVISIONS RELATING TO PLAN AMENDMENTS.**

16 (a) IN GENERAL.—If this section applies to any plan
 17 or contract amendment—

18 (1) such plan or contract shall be treated as
 19 being operated in accordance with the terms of the
 20 plan during the period described in subsection
 21 (b)(2)(A), and

22 (2) such plan shall not fail to meet the require-
 23 ments of section 411(d)(6) of the Internal Revenue
 24 Code of 1986 or section 204(g) of the Employee Re-

1 tirement Income Security Act of 1974 by reason of
2 such amendment.

3 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

4 (1) IN GENERAL.—This section shall apply to
5 any amendment to any plan or annuity contract
6 which is made—

7 (A) pursuant to any amendment made by
8 this Act or pursuant to any guidance issued by
9 the Secretary of the Treasury (or the Sec-
10 retary’s delegate) under any such amendment,
11 and

12 (B) on or before the last day of the first
13 plan year beginning on or after January 1,
14 2001.

15 In the case of a governmental plan (as defined in
16 section 414(d) of the Internal Revenue Code of
17 1986), this paragraph shall be applied by substitut-
18 ing “2003” for “2001”.

19 (2) CONDITIONS.—This section shall not apply
20 to any amendment unless—

21 (A) during the period—

22 (i) beginning on the date the legisla-
23 tive amendment or guidance described in
24 paragraph (1)(A) takes effect (or in the
25 case of a plan or contract amendment not

1 required by such legislative amendment or
2 guidance, the effective date specified by the
3 plan), and

4 (ii) ending on the date described in
5 paragraph (1)(B) (or, if earlier, the date
6 the plan or contract amendment is adopt-
7 ed),

8 the plan or contract is operated as if such plan
9 or contract amendment were in effect, and

10 (B) such plan or contract amendment ap-
11 plies retroactively for such period.

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